BOMBAY ACT No. XLVII OF 1953.[1]

[THE BOMBAY SALES OF INTOXICANTS TAXATION ACT, 1953.]

[*23rd July 1953*]

Amended by Bom. 52 of 1953.

An Act to provide for the levy of a tax on the sales of intoxicants in the State of Bombay.

WHEREAS it is expedient to provide for the levy of a tax on the sales of intoxicants in the State of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales of Intoxicants Taxation Act, 1953.

(*2*) It shall extend to the whole of the State of Bombay.

[2][(*3*) This section shall come into force at once. The State Government may, by notification in the *Official Gazette*, direct that the remaining provisions of this Act shall come into force in respect of such intoxicants specified in column 1 of the Schedule and on such date as may be specified in the notification.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "asava or arishta" means a medicinal preparation in liquid form which contains alcohol generated by a process of fermentation and which is prepared in accordance with the Ayurvedic system of medicine;

Bom. III of 1953.

(*2*) "Collector" means the Collector of Sales Tax appointed under the Bombay Sales Tax Act, 1953;

(*3*) "country liquor" means all liquor, other than foreign liquor, produced or manufactured in India;

(*4*) "duty paid foreign liquor" means foreign liquor on which,—

XXXII of 1934. VIII of 1878.

(*i*) duty leviable under the Indian Tariff Act, 1934, or the Sea Customs Act, 1878, or

Bom. XXV of 1949.

(*ii*) the excise or countervailing duty under the Bombay Prohibition Act, 1949,

has been paid and includes foreign liquor which is exempted from such duty;

(*5*) "fermented liquor" means ale, beer, milk stout, stout (porter) and cider and such other fermented liquor which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*6*) "foreign liquor" means duty-paid potable foreign liquor brought into India by sea, air or land and includes spirits, wines and fermented liquors:

Provided that the State Government may, by notification in the *Official Gazette*, declare that any specified kind of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor;

(*7*) "hemp drugs" means ganja and bhang;

(*8*) "intoxicant" means foreign liquor, country liquor, spirituous medicinal preparation, non-potable liquor, opium and hemp drugs;

(*9*) "licence" means a licence granted or renewed under this Act;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1953, Part V, p. 319.

[2] This sub-section was substituted for the original by Bom. 52 of 1953, s. 2.

(*10*) "medicated or tonic wine" means a mixture or compound of any wine with medicinal substances, whether the wine is fortified with spirit or not and which is a "drug" as defined in the Drugs Act, 1940; XXI of 1940.

(*11*) "non-potable liquor" means,—

(*a*) rectified spirit,

(*b*) denatured spirit,

(*c*) methyl alcohol,

(*d*) higher alcohols, that is, amyl alcohol, butyl alcohol, capryl alcohol, propyl alcohol and fusel oil,

(*e*) any other non-potable liquor which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*12*) "opium" means,—

(*a*) the capsules of poppy (*Papaver Somniforum L.*),

(*b*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport, and

(*c*) any mixture with or without neutral materials of any of the above forms of opium;

(*13*) "prescribed" means prescribed by rules;

(*14*) "rules" means rules made under this Act;

(*15*) "sale" means a sale of intoxicants made within the State of Bombay for cash or deferred payment or other valuable consideration and includes any supply by a society or club or an association to its members on payment of price or on fees or subscription; the words "sell", "buy" and "purchase" with all their grammatical variations and cognate expressions shall be construed accordingly;

Explanation.—Notwithstanding anything contained in the Indian Sale of Goods Act, 1930, the sale of any intoxicants which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State shall be deemed for the purposes of this Act to have taken place in the said State, notwithstanding the fact that the property in the intoxicants has by reason of such sale, passed in another State. III of 1930.

(*16*) "Schedule" means the Schedule appended to this Act;

(*17*) "spirits" means brandy, whisky, rum, gin, liqueurs and milk punch and such other spirits which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*18*) "spirituous medicinal preparation" means any medicinal preparation in liquid form containing alcohol and includes a medicated or tonic wine, an Asava or Arishta;

(*19*) "State" means the State of Bombay;

(*20*) "warehouse" means any place where an intoxicant is manufactured, stored or kept for purposes other than private consumption;

Provided that—

(*a*) no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order ;

(*b*) before rejecting any application for the revision of any such order, the Collector shall record reasons for such rejection ; and

(*c*) before any order is passed under this sub-section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(*4*) The State Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

Power of Government to exempt class of persons and any intoxicant from Act.

23. The State Government may, by rules made in this behalf, exempt any class of persons or any intoxicant from all or any of the provisions of this Act if the State Government is satisfied that in public interest such exemption is necessary.

Power of State Government to reduce rate of tax.

[1][**23A.** The State Government may, by notification in the *Official Gazette* reduce the rate of tax leviable on the sale of any intoxicant specified in column 1 of the Schedule.]

Power to make rules.

24. (*1*) The State Government may, for the purposes of carrying out the provisions of this Act, make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the State Government may make rules for the following matters, namely :—

(*a*) the stage and time at which and the manner in which the tax shall be levied under section 4 ;

(*b*) the manner of making an application, the form, term and conditions of licences under section 7, the term of renewal and the fees for the grant or renewal thereof ;

(*c*) the form of accounts to be maintained and of statements to be submitted, the dates by which and the manner in which such statements are to be submitted under section 9 ;

(*d*) the conditions subject to which a licence may be suspended or cancelled under section 10 ;

(*e*) the manner in which, and the authority to which, appeals against any order under this Act may be preferred under section 22 ;

(*f*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under section 22 ;

(*g*) the conditions and restrictions subject to which any class of persons or any intoxicant may be exempted from all or any of the provisions of this Act under section 23 ;

(*h*) any other matter which is required to be or may be prescribed.

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[1] This section was inserted by Bom. 52 of 1953, s. 3.

(*3*) Any rule made under this section may provide that any person contravening any such rule shall be liable, on conviction, to be punished with a fine which may extend to one hundred rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication and shall be published in the *Official Gazette*.

Act and rules not to apply to certain sales or purchases.

25. Nothing in this Act or the rules made thereunder shall apply to any sale or purchase of any intoxicants or impose or authorise the imposition of a tax under this Act on any sale or purchase of any intoxicant, where such sale or purchase takes place—

(*a*) (*i*) outside the State ; or

(*ii*) in the course of the import of the intoxicants into the territory of India, or the export of the intoxicant out of such territory ; or

(*b*) in the course of inter-State trade or commerce, except in so far as Parliament may by law otherwise provide,

and the provisions of this Act and the said rules shall be read and construed accordingly.

Explanation.—For the purpose of clause (*a*) (*i*), a sale or purchase shall be deemed to have taken place in the State in which the intoxicant has actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State, notwithstanding the fact that under the general law relating to sale of goods the property in the intoxicant has by reason of such sale or purchase passed in another State.

Non-application of Bombay Sales Tax Act, 1953, to intoxicants.

26. Nothing in the Bombay Sales Tax Act, 1953, in so far as it provides for the levy of special tax under the said Act shall apply to the sale or purchase of any intoxicant on the sale of which a tax is levied under this Act. Bom. III of 1953.

SCHEDULE.

(*See* section 3.)

Name of Inoxicant.	Rate of tax.
1	2
1. (*i*) Foreign liquor (*ii*) Country liquor.	... Six annas in the rupee of the sale price.
2. Spirituous medicinal preparations.	Four annas in the rupee of the sale price.
3. (*i*) Non-potable liquor (*ii*) Opium. (*iii*) Hemp drugs.	... One anna in the rupee of the sale price.